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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Hans-Jurgen Hannig

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EXAMINER

GARCIA, ERNESTO

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

04/22/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/019,195	<b>Applicant(s)</b> HANNIG ET AL.	
	<b>Examiner</b> ERNESTO GARCIA	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/22/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The indicated allowability of claim 39 is withdrawn in view of the reference to Wilson, USP 2,430,200. Upon reconsideration, it has come to the attention of the examiner that the previous indication that claim 39 was allowable was premature in view of Wilson, USP 2,430,200. Rejection of the claims in view of this reference follows below.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Oath/Declaration***

The examiner has reviewed the record and noted that the foreign priority is claimed to DE199 29 893.3 while the uncertified copy submitted has a different number DE199 29 896.3. This objection was pointed out in the Office action dated December, 12, 2003 and has yet to be resolved. Appropriate correction is required in order to be entitled to benefit of the earlier date.

### ***Claim Objections***

Claims 39 and 42 are objected to because of the following informalities:

regarding claims 39, --inclined-- should be inserted before “retaining” in line 29, and comma should be inserted after “projection” in line 35 and after “panel” in line 37; and,

regarding claim 42, the first occurrence of "the" in lines 3 and 6 should be --an--, a comma should be inserted after “panel” in line 5, the second occurrence of "the" in lines 5 and 8 should be --an--, and the first occurrence of "the" in lines 8 and should be --a--. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

### ***Claim Rejections - 35 USC § 112***

Claim 43 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 43, the recitation “intermediate spaces provided with clearance” in line 2 is unclear. First, intermediate to what are the spaces and where are they located? Second, a space is already a “clearance” and thus it is redundant to state that the spaces are provided with clearance. It seems that the space and the clearance are one and the same. If not, then how does one delineate between the “space” and the “clearance”?

***Claim Rejections - 35 USC § 103***

Claims 33-41 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Choppe, FR-2,278,876, in view of Wilson, 2,430,200.

Regarding claim 33, Choppe discloses, in the figures unlabeled, a fastening system comprising a first panel **1** and a second panel **1** (see English abstract which uses the term "tiles" thus there are at least two tiles). At least one pair of oppositely disposed retaining profiles is arranged at edges of the first panel and the second panel. The oppositely disposed retaining profiles complement each other. The oppositely retaining profiles of the first panel and the second panel comprise complementary hook elements **E** that hook one into the other. The complementary hook elements comprise a first hook projection **E** and a second hook projection **E**. The first hook projection is connected to the first panel by a first leg on an upper portion of the edge of the first panel. The first hook projection has an inclined retaining surface. The first hook projection is reduced from a free end of the first hook projection towards the first leg. The second hook projection is connected to the second panel by a second leg on a lower portion of the edge of the second panel. The second hook projection has an inclined retaining surface such that the second hook projection is reduced from a free end of the second hook projection towards the second leg. In an assembled condition, the inclined retaining surface of the first hook projection bears against the inclined retaining surface of the second hook projection. The first hook projection, connected to

the first panel by the first leg on the upper portion of the edge of the first panel, bears against the second leg connected to the second panel at the lower portion of the second panel. However, Choppe fails to disclose a space provided between the second hook projection connected to the second panel by the second leg on the lower portion of the edge of the second panel and the first leg connected to the first panel at the upper portion of the first panel.

Wilson teaches, in Figure 2, a space **A1** (see marked-up attachment; col. 20-24) provided between a second hook projection **11** connected to a second panel **1** by a second leg **10** on a lower portion of an edge of the second panel **1** and a first leg **2** connected to a first panel **4** at an upper portion of the first panel **4**. Wilson does not explicitly state the reason for the space but it appears that one can place adhesive so that the panels are not separated from each other. Therefore, as taught by Wilson, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a space between the second hook projection connected to the second panel by the second leg on a lower portion of the edge of the second panel of Choppe and the first leg connected to the first panel at an upper portion of the first panel to allow space for adhesive thus insuring the two panels to be permanently joined.

Regarding claim 40, given the modification, the first leg would have projected approximately perpendicular from the edge of the first panel. The first hook projection would have faced towards the underside of the first panel. The second leg would have

projected approximately perpendicular from the opposite edge of the second panel.

The second hook projection would have faced towards the top side of the second panel.

Regarding claim 41, given the modification, the inclined retaining surfaces of the hook projections would have engaged each other such that the complementary hook projections hook one into the other only by elastic deformation.

Regarding claim 44, Choppe, as modified, fails to disclose the panels made substantially of MDF, HDF, or chipboard material. Applicants are reminded that making panels of MDF, HDF, or chipboard material is an obvious modification to resist wear. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the panels of MDF, HDF, or chipboard material to prolong the panels from wearing.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Choppe, FR-2,278,876, in view of Wilson, 2,430,200, as applied to claims 39-41 and 44, and further in view of Moriau et al., 6,006,486.

Regarding claim 42, Choppe, as modified, discloses an end of the first hook projection at an under portion of the first panel bearing against the second panel at least in a region of an upper portion of the edge of the second panel. However, Choppe fails to disclose a clearance provided between an end of the second hook projection at the

lower portion of the second panel and the edge of the first panel. Moriau et al. teach, in Figure 8, a clearance (near "12") provided between an end of a second hook projection **47** at a lower portion of the second panel and an edge of a first panel **8** to allow inclusions such as dust to be inserted such that the panels are engaged without the inclusions exerting an adverse influence upon the engagement of the panels (col. 11, line 66, to col. 12, line 4). Therefore, as taught by Moriau et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a clearance between the end of the second hook projection at the lower portion of the second panel and an edge of the first panel to allow inclusions to be located during engagement of the panels thus providing a good engagement between the panels.

Regarding claim 43, Choppe, as modified, fails to disclose intermediate spaces between the panels forming adhesive pockets. Moriau et al. teach, in Figure 8, intermediate spaces (19:20, 12:14) between the panels forming adhesive pockets to allow adhesive to be inserted (col. 4, lines 5-6). Therefore, as taught by Moriau et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide intermediate spaces between the panels forming adhesive pockets to allow the two panels to be inserted.



### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 3679

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/E. G./

Examiner, Art Unit 3679

April 22, 2009

Attachment(s): one marked-up page of Wilson, 2,430,200

/Daniel P. Stodola/  
Supervisory Patent Examiner, Art Unit 3679

Art Unit: 3679

Wilson, 2,430,200

